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APPLICATION NUMBER 08/833,620 FILING DATE 04/09/97 FIRST NAMED APPLICANT DOBBSINS ATTY. DOCKET NO. M 15275/8610 (D)

EXAMINER

13M1/0203

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ART UNIT PAPER NUMBER

1304

DATE MAILED: 02/03/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on 8-18-97
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire Three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1, 4-23, 26-32 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 1, 4-23, 26-27 + 30 is/are allowed.
- ☒ Claim(s) 28-29 + 31-32 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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DETAILED ACTION

Reissue Applications

This application is objected to under 35 U.S.C. 251 as lacking the written consent of all assignees owning an undivided interest in the patent. The consent of the assignee must be in compliance with 37 CFR 3.73(b). See MPEP § 324. No evidence is indicated that is in compliance with 37 CFR 3.73(b).

The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

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REJECTION

Claims 1, 4-23 and 26-31 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

Claim Rejections - 35 USC § 112

Claims 28-29 and 31-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 28 and 31, there is no antecedent basis for "that achieved when silicon tetrachloride is utilized"; it is unclear it refers to efficiencies achieved with methods known at the time of invention, methods known at the time of filing, methods known at the time of issue of the parent or reissue, or some other efficiency. It is unclear which efficiency the claims refer to: the percentage of compound that is converted to glass, the percentage of glass particles that stick, or the total number of particles that stick.

Claims 29 and 32 are unclear as to what the percentage is based on; efficiencies are based in percentages. Note the chloride embodiment might be such that 15% of the formed particles stick to the mandrel: a 20% increase might be $(15 + 20 =) 35\%$, or $(15 + 0.20 (15) =) 18\%$.

Claims 28-29 and 31-32 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. One cannot practice the invention because claims 23 and 1 require that no halide-containing vapors are produced yet these dependent claims implicitly result in halide containing

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vapors. Claims 28 and 31 have a step of increasing an efficiency wherein the initial efficiency is derived from a halide-producing gas (silicon tetrachloride). To have a step of increasing, the halide producing steps must be practiced first.

Allowable Subject Matter

Claims 1, 4-23, 26-27 and 30 define over the prior art of record.

The following is a statement of reasons for the indication of allowable subject matter:

The claims define over the prior art because of the specific chemicals that are claimed.

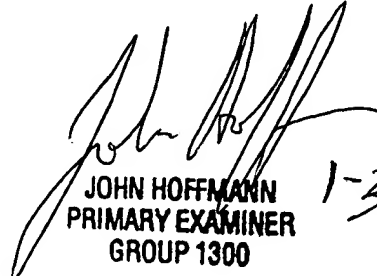
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kratel, Daimler, Japan and Asahi are cited as being of general interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is (703) 308-0469.

The fax phone number for this Group is (703) 305-7115. It is strongly suggested that all faxes be labeled "OFFICIAL" or "UNOFFICIAL"; failure to do so will result in the fax and file wrapper being inaccessible to Examiner for an extended period of time.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651 .


JOHN HOFFMANN
PRIMARY EXAMINER
GROUP 1300 1-30-98